United Nations S/2001/809

Security Council

Distr.: General
20 August 2001
English
Original: Arabic

Letter dated 20 August 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 20 August 2001 from Mr. Naji Sabri, Minister for Foreign Affairs of Iraq, in response to the report which you submitted to the Security Council on 15 August 2001 concerning Kuwaiti missing persons (S/2001/796).

The Minister affirms Iraq's conviction of the humanitarian nature of the issue of missing persons, irrespective of their nationality, and its resolve to continue its cooperation with the International Committee of the Red Cross as an impartial international body, and with the States which have files of missing persons, thereby giving effect to the obligations specified in the Geneva Conventions of 1949.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Al-Douri**
Ambassador
Permanent Representative

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Annex to the letter dated 20 August 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

We read with great surprise and perplexity the report which you submitted to the Security Council on 15 August 2001 (S/2001/796) which presents an untrue picture of the subject of missing persons and confirms, once again, our conclusions concerning the unfair measures taken by the Secretariat of the United Nations and the subjective and biased policies adopted by the Security Council, under pressure from the United States and the United Kingdom, in its dealings with Iraq. The report overlooks the cooperation of Iraq in the humanitarian field in releasing all the Kuwaiti prisoners of war, and those from other countries, in March 1991 and the sustained efforts it has made since April 1991 to resolve the problem of missing persons.

Since 1991, Iraq has stated on every occasion that the subject of missing persons is a humanitarian issue, which must not be politicized or handled selectively or with double standards, and that responsibility for dealing with it should be left to the International Committee of the Red Cross (ICRC) in cooperation with the parties that have files of missing persons, on the grounds that ICRC is the impartial international body mandated by the Geneva Conventions of 1949 to follow up this humanitarian issue. However, the United States and the United Kingdom have insisted that the Security Council, which is a political organ, should follow up this dossier in a selective manner, the purpose being to use the dossier as a further means of exerting political pressure on Iraq on account of its rejection of United States hegemony. This is in addition to the other pressures exerted unsuccessfully by those States, chief among which are the ongoing policy of mass extermination of the Iraqi people by means of the comprehensive blockade imposed in the name of the United Nations, the daily military pressure in the two illegal no-flight zones, and the financing and training of terrorist groups with a view to destabilizing Iraq. Clear evidence of this failed approach is resolution 1284 (1999) which was stillborn and which rewrote the earlier resolutions of the Council in order to evade the obligations imposed on the Council by resolution 687 (1991), chief among them being the implementation of paragraphs 22 and 14 of that resolution. That dead-and-buried resolution dealt selectively with the missing persons dossier on the basis of the nationality of the persons concerned, created a tendentious political mechanism for dealing with the issue of Kuwaiti and Saudi Arabian missing persons, and overlooked the Iraqi missing persons, of whom there were twice as many as those of Kuwaiti and Saudi Arabian nationality. It also disregarded international humanitarian law and the Geneva Conventions of 1949 which mandated ICRC to follow up the humanitarian dossier. Thus, the Security Council, by means of its dead-and-buried resolution, tried to wrest the follow-up to this humanitarian mission from ICRC in order to further politicize it to serve the ends of United States and British policy of hostility towards Iraq.

The reports prepared by the so-called Coordinator, who was appointed by the Secretary-General to follow up this dossier, provided positive proof of this political, selective and tendentious approach. The latest report by the Secretary-General, issued as document S/2001/796, is a final proof of selectivity, double standards and deliberate distortions of the facts. Some examples are given below.

1. In section II (background), the report gives a selective account of certain events and, in referring to the discussion session between the Secretary-General and the Minister for Foreign Affairs of the Republic of Iraq in February 2001, merely states: "The Iraqi side stated that Iraq repatriated all prisoners of war and performed and continues to perform its duty to cooperate in accounting for missing persons". The report disregards the information reported to the Secretary-General during the discussion session concerning the number of Kuwaiti prisoners and those from other States who were released by the Iraqi authorities in March 1991 (6,498 persons) and also disregards Iraq's reference to the paper submitted by the Red Cross to the Commission of Ambassador Amurim which clearly mentioned that what the Red Cross was following up was the issue of missing persons and not prisoners of war, since Iraq had released all prisoners of war in March 1991, including members of the ruling family of Kuwait. It also disregarded Iraq's affirmation of the need to follow up the Iraqi missing persons whose files had been submitted to the Red Cross. On that subject the Iraqi Ambassador stated during the discussion session as follows:

> "The Iraqi authorities have submitted to the Kuwaiti authorities all evidence connected with the disappearance of missing persons. The evidence is conclusive and worthy of serious study. The Iraqi missing persons include civilians who were arrested in their homes in Kuwait in front of their families after the withdrawal of the Iraqi army from Kuwait. The others were civilians and military personnel who were seen by Iraqi and Arab witnesses in detention centres in Kuwait or in military hospitals during the first half of 1991 but who had since disappeared. While the Kuwaiti authorities continued to state at meetings of the technical subcommittee their willingness to investigate the fate of Iraqi missing persons they failed in practice to submit any information that might assist in the investigation of their fate. The fact is that the Kuwaiti authorities continued to ignore all the Iraqi requests to shed light on the fate of Iraqi missing persons.
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> The Kuwaiti authorities made a habit of giving illogical replies, claiming that they had not been in control of the situation in Kuwait after the withdrawal of the Iraqi forces. They also claimed that some irregular groups had been responsible for killing Iraqi civilians and military personnel, but they were unable to specify which groups they were.
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> Lastly, the Kuwaiti authorities retreated from this position, alleging that they had been in control of the situation inside Kuwait but that they had no information about any missing Iraqi persons.
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> Kuwait cannot shirk compliance with its obligations under the Geneva convention. Its duty cannot be shirked simply because the provisions of resolutions of the Security Council may have adopted a discriminatory position. Those resolutions cannot replace the conventions. Accordingly, Iraq vigorously demands that Kuwait should be forced to fulfil its obligations under the conventions."

The report disregards all these facts concerning the position of Iraq while elaborating on information unconnected with the report, which implied focusing on the mandate of the so-called Coordinator, such as the joint communiqué of the eleventh session of the Ministerial Council of the Cooperation Council for the Gulf Arab States and the European Union and the contents of the final communiqué of

the seventy-ninth session of the Ministerial Council of the Cooperation Council for the Gulf Arab States and the communiqué of the Security Council of 20 June 2001.

2. Also in section II mentioned above, the report reviews, in a selective and distorted way, the positions of States expressed during the open meeting of the Security Council on 26 and 28 June 2001 and quotes a number of paragraphs to the effect that "the issue of missing Kuwaitis ... should be properly resolved at an early date" and disregards the paragraphs that refer to resolving the issue of all missing persons irrespective of their nationalities. The report also quotes, in a distorted manner, the text of a speech by the Permanent Representative of China from which the reference to property is deleted thereby deliberately perverting the text and its content.

3. Paragraph 11 of the report gives an inaccurate account of the statement by the Deputy Minister for Foreign Affairs at the Headquarters of the United Nations on 29 June 2001. In that statement he affirmed that Iraq was cooperating with the Tripartite Commission in investigating the fate of Kuwaiti and third nationality missing persons, saying that success had been achieved in ascertaining the fate of certain missing persons, and expressing the readiness of Iraq to resume work within the Tripartite Commission in the presence of the parties that had files of missing persons. He also referred to the steps taken by Iraq to cooperate with ICRC to ascertain the fate of the United States airman whose aircraft had been shot down by the Iraqi army during the 1991 aggression against Iraq. All these facts are deliberately omitted from the report.

4. Paragraph 17 of the report states that "Kuwait had presented a new idea about the involvement of ICRC in making progress on these humanitarian issues, [but] Iraq rejected this proposal." This is another baseless assertion intended to distort the facts; the truth is that Kuwait had presented no new proposal. The Secretary-General of the United Nations has it in his power to contact ICRC to verify that this absurd allegation is untrue.

5. In section III of the report there is a review of the activities of the so-called Coordinator during the reporting period. His activities concentrated on the Kuwaiti missing persons and ignored the subject of Iraqi missing persons. This gives a tendentious political dimension to the subject of Kuwaiti missing persons and is an attempt to distort the picture of Iraq's cooperation with ICRC and diminishes the role and mandate of the Red Cross in following up this humanitarian issue. These activities clearly confirm the tendentious political nature of the mission of the so-called Coordinator.

6. In paragraph 24 of the report there is a sentence which says: "Iraq should appreciate the fact that the international community is not selective and that all cases of missing persons, whether Kuwaiti, Saudi, Iraqi or others, would be addressed." It appears that this sentence was included to give an impression of objectivity but the content of the report make clear that such an impression is false. The report as a whole is concerned with Kuwaiti missing persons and was politicizing this humanitarian dossier. The author of the report shirks any consequential responsibility of this statement which is made in the name of "the international community" and not in the name of "the United Nations" or of "the Security Council" because he knows that from the outset the Security Council treated this dossier in a political, tendentious and selective manner.

7. The report contains a footnote stating "that the nationals to be repatriated or returned include, in addition to 570 Kuwaitis, 3 Lebanese, 1 Indian, 4 Iranians, 5 Egyptians, 4 Syrians, 1 Bahraini, 1 Omani and 14 Saudi Arabians. Iraq claims that there are 1,142 missing Iraqis". The selective and repugnant language makes it clear that the missing persons of Kuwaiti or other nationalities are regarded as fact while the case of the Iraqi missing persons is regarded as a claim. This is a further indication of the lack of fairness, impartiality and objectivity in your report.

The abuse of the machinery of the United Nations to injure Iraq, distort its image and slander it has reached such an extent that these slanders bear the signature of the Secretary-General of the United Nations. This is a matter for regret and astonishment and can be seen as an implicit endorsement of what such abuse represents in terms of demeaning the principles on which the Charter of the United Nations rests and demeaning the dignity of the Secretary-General of the United Nations, his mandate and his duties under the Charter.

In my letter to you dated 16 August 2001 I clearly explained the position of Iraq with respect to missing persons and assured you of our conviction of the humanitarian nature of the issue of missing persons irrespective of their nationality. I also affirmed our determination to continue to cooperate with ICRC, as an impartial international body, and with the States that have files of missing persons, in order to comply with the obligations specified by the Geneva Conventions of 1949. My letter contained practical proposals for the resumption of the activities of the Tripartite Commission and the oversight of ICRC. I hope that our proposals will receive your support in order that a stop may be put to the political exploitation of this humanitarian dossier.

(*Signed*) Naji **Sabri**
Minister for Foreign Affairs